

REMARKS

Claims 1-11 are in the application.

In said Official Action the Examiner rejected claims 1, 2 and 7 under 35 USC 103(a) as being unpatentable over Lewis in view of Lederer or Bucher et al. The Examiner noted that since the applied reference has a common owner this rejection might be overcome by a showing under 37 CFR 1.132 "...that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"...", together with a terminal disclaimer. Nevertheless, since Lederer and Bucher et al. have been cited in the alternative, a terminal disclaimer and declaration (not effective relative to Bucher et al.) have not been provided at this time. It is however submitted by the undersigned attorney for applicant that he was the attorney of record in the cited Lederer reference and that the patentee is the same as the present applicant.


With respect to the alternative rejection claim 1 has been amended to specify that the light source is physically separated from the batteries by one of the end plates. This does not preclude additional separations which may be interposed as being within the purview of the invention. Since Lewis requires direct contact of a bulb with a battery terminal for completing a circuit such interposition is neither shown nor rendered obvious by Lederer nor Bucher et al. Newly added claims 9-11, which have been broadened, with respect to a functional replacement for the end plates, also contain a similar structural configuration and physical separation limitation. Claim 10 also specifies that the batteries are not in physical alignment with the light source thereby

structurally precluding the operational function of the Lewis invention. The Examiner is accordingly requested to review and withdraw the rejection based on the cited prior art.

Applicant acknowledges the indicated allowability of claims 3-6 and 8. Claims 3 and 8 have accordingly been made independent and claims 2, and 4-7 are dependent on amended claim 1.

It is submitted that with the above amendment and discussion that the present claims are patentable over the cited prior art and are in condition for allowance, with such favorable action being respectfully solicited.

Respectfully submitted,
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I hereby certify that this communication is being deposited with the United States Postal Service as first class mail, postage prepaid, on August 23, 2005 in an envelope addressed to Commissioner for Patents, P.O.Box 1450, Alexandria, Virginia 22313-1450

Date

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